

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>KENNETH L. VONEIDA,</b>	:	<b>CIVIL ACTION NO. 1:10-CV-2572</b>
<b>Plaintiff</b>	:	
	:	
v.	:	<b>(Judge Conner)</b>
	:	
	:	
<b>KEVIN STOEHR, et al.,</b>	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 20th day of April, 2011, upon consideration of the Report and Recommendation of United States Magistrate Judge J. Andrew Smyser (Doc. 7), recommending that the Commonwealth defendants motion to dismiss (Doc. 4) be granted, and, following an independent review of the record and noting that plaintiff filed objections<sup>1</sup> to the report on April 13, 2011 (Doc. 8), and the court finding Judge Smyser's analysis to be thorough and well-reasoned, and the court finding plaintiff's objections to be without merit and squarely addressed by Judge Smyser's report (Doc. 7), it is hereby ORDERED that:

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<sup>1</sup> Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at \*3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at \*6 (M.D. Pa. Sept. 8, 2008)).

1. The Report and Recommendation of Magistrate Judge Smyser (Doc. 7) are ADOPTED.
2. The Commonwealth defendants' motion under Rule 12(b)(6) of the Federal Rules of Civil Procedure (Doc. 4) is GRANTED and the Commonwealth defendants are DISMISSED from this action.
3. The above-captioned case is REMANDED to Magistrate Judge Smyser for further proceedings.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge